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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,140	06/26/2006	Shigeru Kusano	293039US0PCT	5666
22850	7590	02/25/2010		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER NGUYEN, VU ANH	
			ART UNIT 1796	PAPER NUMBER
			NOTIFICATION DATE 02/25/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,140	<b>Applicant(s)</b> KUSANO ET AL.	
	<b>Examiner</b> Vu Nguyen	<b>Art Unit</b> 1796	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1, 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/26/2006 and 02/09/2007</u> .                               | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1, 8 and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/14/2009.

### *Specification*

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

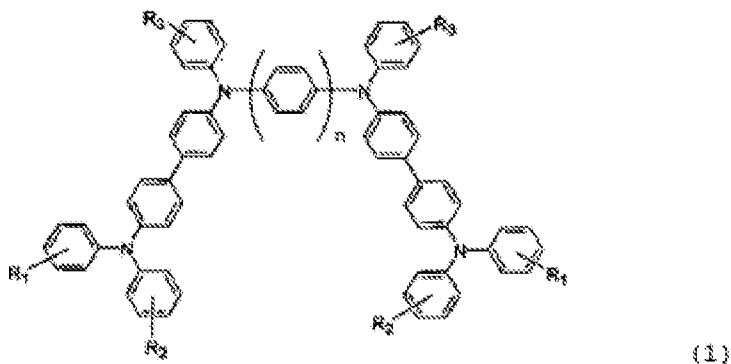
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

Art Unit: 1796

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

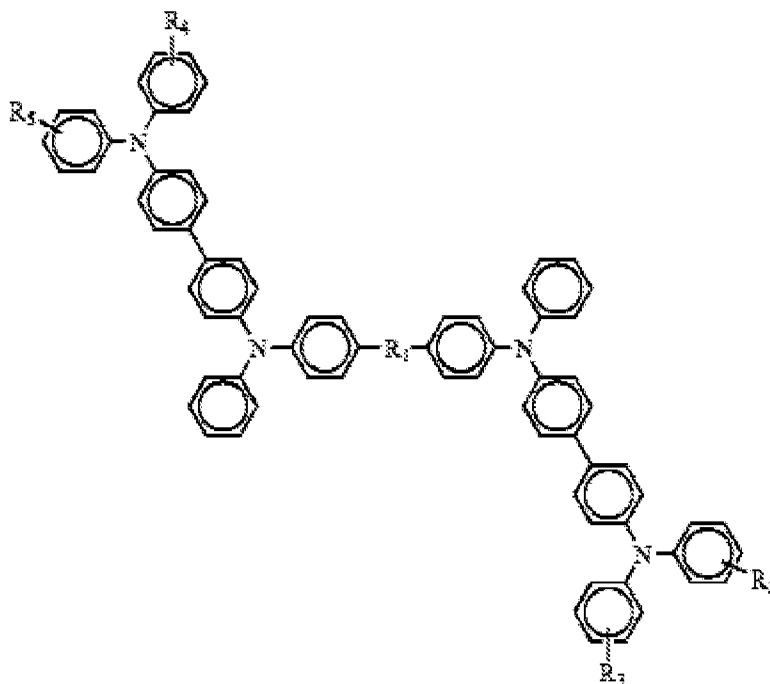
4. Claims 2 and 3 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2 and 3 of U.S. Patent No. 7,402,701 (hereafter '701). Although the conflicting claims are not identical, they are not patentably distinct from each other because they are highly overlapped in scope. The present claims 2 and 3 recite an organic EL element material and an organic EL element containing a tetramine compound, wherein said material and said compound have the following structural representation:



wherein R1, R2 and R3, which may be the same or different, each represents a hydrogen atom, a tertiary alkyl group having 4 to 8 carbon atoms, an unsubstituted aryl group or an aryl group substituted with a tertiary alkyl group having 4 to 8 carbon atoms, and n represents 3 or 4.

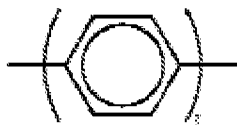
Art Unit: 1796

Claims 2 and 3 of '701 recite an organic EL material and an organic EL device comprising a tertiary amine compound, wherein said material and said compound have the following structural representation:



in which

$R_1$  is a group represented by the following formula:



wherein  $I$  is an integer equal to or larger than 1, and  $R_2$ ,  $R_3$ ,  $R_4$  and  $R_5$  independently represent a hydrogen atom, an alkyl group or an aryl group.

Art Unit: 1796

Clearly, the claimed material and the material of '701 have a large number of species in common and the claimed invention would have been obvious to a person of ordinary skill in the art over the claims 2 and 3 of '701.

***Claim Rejections - 35 USC § 102***

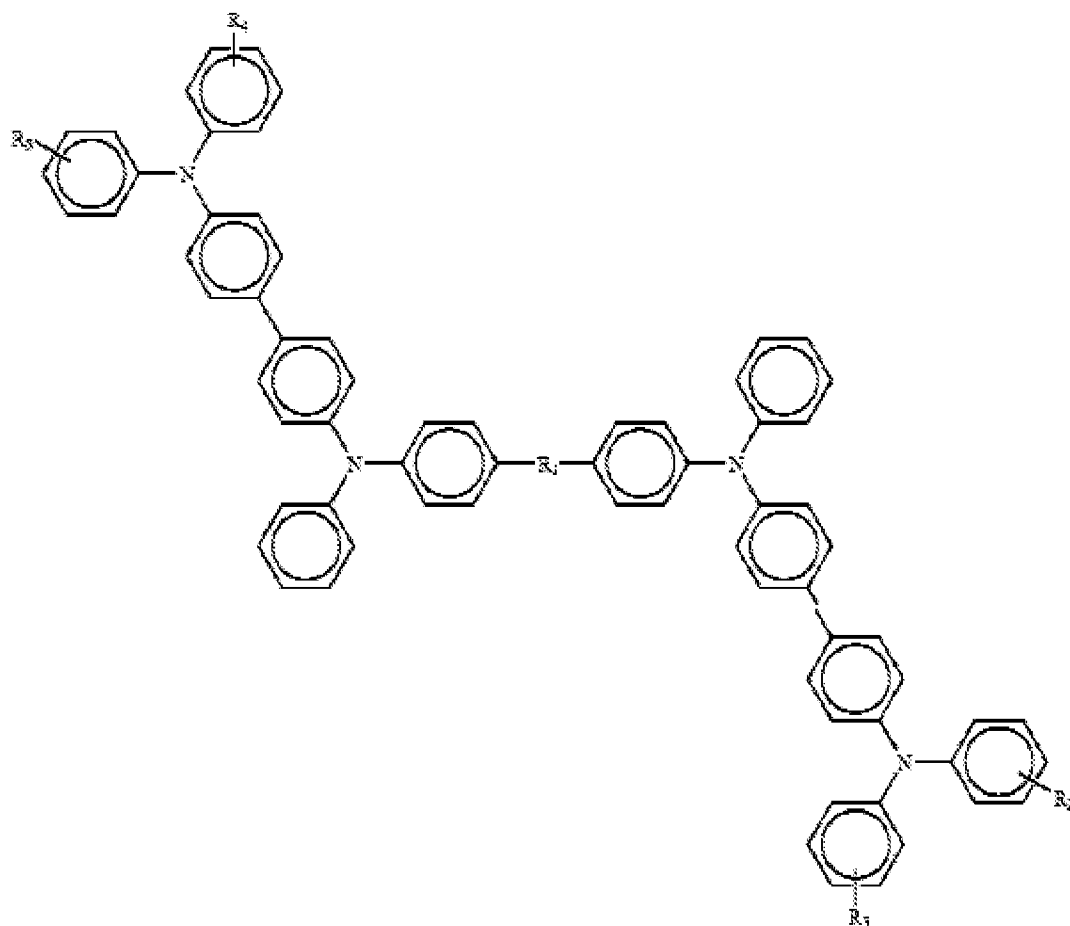
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

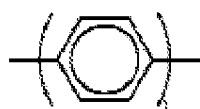
6. Claims 2-4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato et al. (US 7,357,992).

7. Corresponding to the limitations set forth in these claims, Kato et al. discloses an organic EL device having a configuration of anode/hole-injection layer/hole-transporting layer/light-emitting layer/electron-transporting layer/electron-injection layer/cathode (Figure 2), wherein the light-emitting layer, which may comprise more than one layer, comprises a mixture of a hole-transporting material, an electron-transporting material, and a light-emitting additive, and wherein the hole-transporting material comprises a tertiary amine compound having the following formula (claim 1):

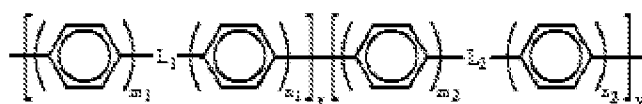


in which

$R_1$  is a group represented by the following formula (IV)  
 or (V):



(IV)

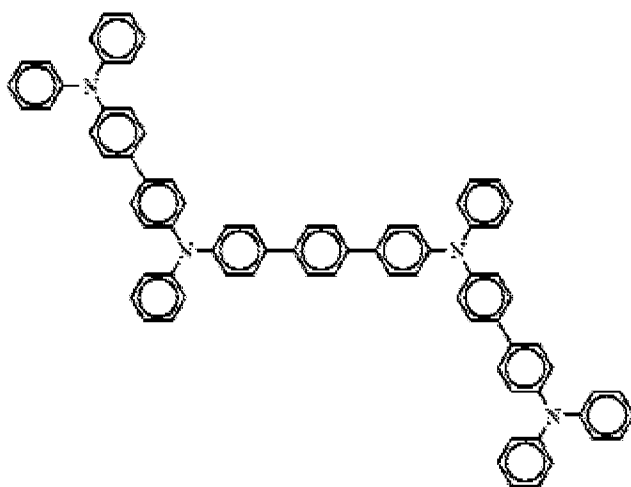


(V)

wherein  $l$ ,  $m_1$ ,  $m_2$ ,  $n_1$  and  $n_2$  each is an integer of at least 1,  $x$  is an integer of at least 1,  $y$  is 0 or an integer of at least 1, and  $L_1$  and  $L_2$  independently represent an arylene compound group, and

$R_1$ ,  $R_2$ ,  $R_3$  and  $R_4$  independently represent a hydrogen atom, an alkyl group or an aryl group.

Examples of said compound that anticipates the claimed compound include the following (claim 3):



The electron-transporting layer comprises tris(8-hydroxyquinolinato)aluminum, which is a well-known light-emitting electron-transporting material (col. 13, lines 50-52; col. 38, lines 30-31). The device therefore reads on claims 4 and 6.

### ***Allowable Subject Matter***

8. Claims 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: Kato et al. fails to teach a hole-transporting layer that (1) has light-emitting



Art Unit: 1796

function or (2) comprises a mixture of the disclosed hole-transporting material and at least one other hole-transporting material.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Nguyen whose telephone number is (571)270-5454. The examiner can normally be reached on M-F 7:30-5:00 (Alternating Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vu Nguyen  
Examiner  
Art Unit 1796

/David Wu/  
Supervisory Patent Examiner, Art Unit 1796

Application/Control Number: 10/584,140  
Art Unit: 1796

Page 9